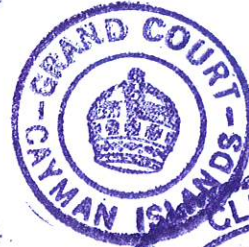


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 350 OF 2010

BETWEEN:

- (1) DENISE LUMSDEN
- (2) PAUL LUMSDEN



Plaintiffs

AND

- (1) RICHARD VERNON



Defendant

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WRIT OF SUMMONS

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TO: (1) RICHARD VERNON of 25 Hope Springs, George Town, Grand Cayman.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs in respect of the claim set out on the next page.

Within 28 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 21<sup>st</sup> day of September 2010

NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.



## **IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form.

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### **STATEMENT OF CLAIM**

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- 1 The Plaintiffs reside at 44 White Hall Gardens, George Town, Grand Cayman.
- 2 The Defendant resides at 25 Hope Springs, George Town, Grand Cayman.
- 3 On or about 26 January 2007 the Plaintiffs provided a loan to the Defendant of US\$151,423.00 to assist the Defendant to pay off a debt he owed to a third party.

#### **Particulars**

- 3.1 The loan agreement was made orally between Denise Lumsden and the Defendant in or around January 2007.
  - 3.2 It was an express verbal term of the loan that the Defendant would repay the loan in monthly instalments, unless the Plaintiffs demanded repayment of the loan in which case the total balance owing would become due and payable immediately.
  - 3.3 It was a further express term of the loan that the Defendant would pay the Plaintiffs interest on the amount of principal advanced from the date of advancement to the date of the last payment at the same rate that the Plaintiffs' were earning on their fixed deposits with First Caribbean, namely 1.8% per annum
  - 3.4 The Plaintiffs transferred US\$151,423.00 to the Defendant by making a payment into the Defendant's nominated bank account on or about 26 January 2007.
- 4 Between 31 January 2007 and 18 April 2008 the Defendant paid the Plaintiffs a total of US\$75,000.00 in partial repayment of the loan.



### Particulars

<u>Payment Made</u>	<u>Date</u>
US\$ 5,000	31 January 2007
US\$ 5,000	28 February 2007
US\$ 0	March 2007
US\$ 5,000	2 April 2007
US\$ 5,000	30 April 2007
US\$ 5,000	30 May 2007
US\$ 0	June 2007
US\$ 5,000	3 July 2007
US\$ 5,000	30 July 2007
US\$ 0	August 2007
US\$ 5,000	3 September 2007
US\$ 5,000	1 October 2007
US\$ 5,000	31 October 2007
US\$ 0	November 2007
US\$ 5,000	12 December 2007
US\$ 5,000	9 January 2008
US\$ 5,000	1 February 2008
US\$ 5,000	2 March 2008
US\$ 5,000	18 April 2008
<u>US\$75,000</u>	

- 5 The last payment of US\$5,000.00 was received on 18 April 2008 and since then in breach of the loan agreement the Defendant has not repaid any further amount to the Plaintiffs.
- 6 On 25 March 2009 the Plaintiffs wrote to the Defendant and made demand for full repayment of the outstanding balance namely US\$76,423.00 plus interest at the rate agreed.
- 7 The Defendant in person and by his lawyer David McGrath of Sampson and McGrath, has admitted that the amount of US\$76,423.00 plus interest at the agreed rate is due and owing.
- 8 In breach of his obligation to repay the loan, the Defendant has failed to pay any additional sum to the Plaintiffs.
- 9 The Plaintiffs claim interest at the rate of 1.8% per annum on the amount of principal advanced namely (US\$151,423 x 1.8% = \$2,725.61 per annum or US\$7.46 per day from 26 January 2007) or alternatively interest pursuant to the Judicature Law.



**AND THE PLAINTIFFS CLAIM**

- (1) Judgment for US\$76,423.00 being the amount of principal owing;
- (2) Interest at the rate of US\$7.46 per day from the 26 January 2007 to the date of payment, or alternatively interest pursuant to the Judicature Law.;
- (3) Court costs; and
- (4) Such further or other relief as this Honourable Court may deem just.

DATED this 21 day of September 2010

*Maples and Calder*

**MAPLES and CALDER**

THIS WRIT was issued by Maples and Calder, attorneys for the Plaintiffs, whose address for service is PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands. (Ref: MWI/657636.01/19646365)



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2010

BETWEEN:

- (1) DENISE LUMSDEN
- (2) PAUL LUMSDEN

Plaintiffs

AND

- (1) RICHARD VERNON

Defendant

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ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

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If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ of Summons is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (*tick where appropriate*)

yes  no

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3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiffs (*tick box*)

yes  no

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Service of the Writ is acknowledged accordingly

.....

Dated:

**Notes on address for service**

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Plaintiff's attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Maples and Calder  
Attorneys-at-Law  
Ugland House  
South Church Street  
PO Box 309 GT  
George Town  
Grand Cayman  
Ref: MWI/657636.01/19647517

Indorsement by Defendants' attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below.

[Empty box for indorsement by Defendants' attorney]

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.